Health and Safety Commission

Consultative Document

Asbestos (Licensing)

Draft regulations

London: Her Majesty's Stationery Office

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Foreword

At its meeting on 9 November, the Health and Safety Commission decided to invite comments on these draft regulations, which originally formed part of the draft Asbestos Insulation and Coating Regulations, issued in 1981 as a Consultative Document. The earlier draft regulations covered both licensing and prohibition, but the Commission has decided to deal with these areas separately. The draft Asbestos (Licensing) Regulations have been revised in the light of comments received and considered on the draft Asbestos Insulation and Coating Regulations.

The main changes that have been made to the regulations are:—

(a) it is proposed that the scope of the licensing scheme should be extended to include employers and self-employed persons undertaking work with asbestos insulation and coating on their own premises. However, these employers and self-employed persons would be offered the alternative of providing notification of any such work in advance to the HSE.

(b) the HSE would be given the power to grant licence only where it considers it appropriate to do so.

(c) the licences would be granted with or without a limit of time.

(d) there would be an obligation for employees and self-employed persons to have regular medical examinations, and for employers to maintain records of the medical examinations of their employees.

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Draft Asbestos (Licensing) Regulations 1982

Draft proposals for Regulations to be made under Sections 15(1), (2), (4)(a), (5)(b) and (9), 43(2) and 82(3)(a) of, and Paragraphs 1(1)(b) and (c), 4, 8(1)(a), 15(1) and 16 of Schedule 3 to, the Health and Safety at Work etc. 1974(a).

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(a) 1974 c. 37

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Citation and commencement

1. These Regulations may be cited as the Asbestos (Licensing) Regulations 1982 and shall come into operation on

Interpretation

2.–(1) In these Regulations, unless the context otherwise requires —

"asbestos" means any of the following minerals, that is to say, crocidolite, amosite, chrysotile, fibrous actinolite, fibrous anthophyllite, fibrous tremolite and any mixture containing any of those minerals;

"asbestos coating" means a surface coating which contains asbestos;

"asbestos insulation" means any material containing asbestos and used for thermal or acoustic insulation;

"work with asbestos insulation or asbestos coating" means work in which asbestos insulation or asbestos coating is removed, repaired, or disturbed and includes such work in any supervisory or ancillary capacity.

(2) Any reference in these Regulations to a paragraph not otherwise identified is a reference to a paragraph in the Regulation where the reference appears.

Work with asbestos insulation or asbestos coating not to be carried on without a licence

3.–(1) Subject to paragraph (2), an employer or self-employed person shall not undertake any work with asbestos insulation or asbestos coating, unless he holds a licence granted under Regulation 4 below relating to such work and complies with the terms and conditions of that licence.

(2) Paragraph (1) shall not apply—

(*a*) where any person who carries out such work does not spend more than a total of one hour on it in any period of seven days; or

(*b*) where the work is undertaken at a usual place of business of an employer whose employees are carrying it out, or of a self-employed person who is carrying it out himself, and that employer or self-employed person, as the case may be, has given notice of the work in accordance with Regulation 6

Licences for work with asbestos insulation or asbestos coating

4.–(1) The Health and Safety Executive may grant a licence for work with asbestos insulation and asbestos coating if it considers it appropriate to do so and —

(*a*) the person who wishes the licence to be granted to him has made application for it on a form approved for the purposes of this Regulation by the Executive; and

(*b*) the application was made at least 28 days before the date from which the licence is to run, or such shorter period as the Executive may allow;

(2) A licence under this Regulation —

(*a*) may be granted subject to such terms and conditions as the Executive considers appropriate;

(*b*) shall come into operation on the date specified in the licence and, subject to paragraph (3), may be with or without a limit of time.

(3) The Executive may revoke the licence or vary any or all of the terms and conditions of the licence if it considers it appropriate to do so.

(4) A fee of £100 shall be payable to the Executive on each application being made for a licence under this Regulation.

Particulars of proposed work with asbestos insulation or asbestos coating to be notified by licensees to the Executive on request

5. Where the Health and Safety Executive so requires, a licensee shall notify the Executive of particulars of any work with asbestos insulation or asbestos coating which he proposes to carry out; and the licensee shall not carry out that work until the notification has been given.

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Notification to the Executive of work with asbestos insulation or asbestos coating at person's usual place of business

6.–(1) The notification to which Regulation 3(2)(b) refers is a notice given to the Health and Safety Executive at least 28 days before the work is commenced and stating that the work is to be carried out and the address of the premises at which it is to be carried out.

(2) Where in the case of asbestos containing crocidolite, an employer or self-employed person has given notice under Regulation 6 of the Asbestos Regulations 1969**(a)** to an inspector appointed by the Executive, that notice shall be deemed to comply with paragraph (1) of this Regulation.

Medical surveillance

7.–(1) An employer shall ensure that each of his employees who works with asbestos insulation or asbestos coating is under medical surveillance by a registered medical practitioner, ("doctor") and that surveillance shall consist of —

(*a*) a medical examination carried out for the purposes of these Regulations before that employee does any work with asbestos insulation or asbestos coating; and

(*b*) further medical examinations at intervals of not more than 2 years;

except that this paragraph shall not apply to a case where Regulation 3(2)(a) applies.

(2) Where an employee has been examined for the purposes of these Regulations, the employer shall keep a certificate, or a copy of a certificate, by a doctor that the employee has been examined for these purposes; and shall keep it for 4 years from the date of the examination.

(3) A self-employed person shall not work with asbestos insulation or asbestos coating unless he has a certificate issued by a doctor that he has been examined for the purposes of these Regulations within the previous 2 years except that this paragraph shall not apply to a case where Regulation 3(2)(a) applies.

(4) Where a doctor has carried out a medical examination of any person before the coming into operation of these Regulations and he certifies that in his opinion that examination should be treated as if it were an examination for the purposes of these Regulations, then it shall be treated as a medical examination for the purposes of paragraphs (1) and (3) and the certificate shall be one to which paragraph (2) applies.

(5) In this Regulation "medical examination" includes any biological tests and X-ray examinations that the doctor may require.

Exemption certificates

8.–(1) Subject to paragraph (2), the Health and Safety Executive, may by a certificate in writing, exempt any person, class of person, product containing asbestos or class of such products from all or any of the prohibitions or requirements imposed by these Reguations and any such exemption may be granted subject to conditions and to a limit of time and may be revoked at any time by a certificate in writing.

(2) The Executive shall not grant any exemption unless having regard to the circumstances of the case and in particular to —

(*a*) the conditions, if any, which it proposes to attach to the exemption, and

(*b*) any other requirements imposed by or under any enactments which apply to the case,

it is satisfied that the health and safety of persons who are likely to be affected by the exemption will not be prejudiced in consequence of it.

Application of these Regulations outside Great Britain

9. These Regulations shall apply in relation to any work with asbestos insulation or asbestos coating to which or in relation to which Sections 1 to 59 of the Health and Safety at Work etc. Act 1974 apply by virtue of the Health and Safety at Work etc. Act 1974 (Application outside Great Britain) Order 1977**(b)**.

(a) S.I. 1969/690. **(b)** S.I. 1977/1232.

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